



STATE OF CALIFORNIA

**STATE BOARD OF EQUALIZATION**

450 N STREET, SACRAMENTO, CALIFORNIA  
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First District, San Francisco

BILL LEONARD  
Second District, Ontario

CLAUDE PARRISH  
Third District, Santa Ana

JOHN CHIANG  
Fourth District, Los Angeles

STEVE WESTLY  
State Controller, Sacramento

JAMES E. SPEED  
Executive Director

March 17, 2003

Dear Interested Party:

An interested parties meeting is scheduled for **Monday, April 7, 2003 at 10:00 a.m.**, in Sacramento at the address shown above in Room 122 to discuss the proposed amendments to Regulation 1616 *Federal Areas*, regarding sales by Indian retailers on Indian reservations. The Notice of Proposed Regulatory Action by the State Board of Equalization to amend Sales and Use Tax Regulation 1616, *Federal Areas*, with the text of the proposed amendments, is attached; please note that the public hearing originally scheduled for February 5, 2003 was postponed so that an additional interested parties meeting could be held before the public hearing. If you are unable to attend the meeting but would like to provide input for discussion at the meeting, please direct your written comments to:

Ms. Diane Olson, Regulations Coordinator

Fax number: (916) 324-3984 or

E-mail: [Diane.Olson@boe.ca.gov](mailto:Diane.Olson@boe.ca.gov) or

Mail: State Board of Equalization, Attention: Diane Olson, MIC: 80, at the above address.

If you are aware of other persons that may be interested in attending the meeting or presenting their comments, please feel free to provide them with a copy of this letter and the enclosed material and extend an invitation to the meeting. If you plan to attend the meeting on April 7, 2003, or would like to participate via teleconference, I would appreciate it if you would let staff know by contacting Ms. Olson via telephone at (916) 322-9569 or e-mail prior to April 1, 2003. This will allow staff to make alternative arrangements should the expected attendance exceed the maximum capacity of Room 122 and to arrange for teleconferencing.

Please be aware that a copy of the material you submit may be provided to other interested parties and will become part of the rulemaking file submitted to the Office of Administrative Law as part of the regulation approval process. Therefore, please ensure your comments do not contain confidential information.

We look forward to your participation.

Sincerely,

Janice L. Thurston  
Assistant Chief Counsel  
Business Taxes, Legal Division

JLT:sw  
Attachment

cc: (all with enclosures)

Honorable Carole Migden, Chairwoman  
Honorable Claude Parrish, Vice Chairman  
Honorable Bill Leonard, Member, Second District (MIC 78)  
Honorable John Chiang, Member, Fourth District  
Honorable Steve Westly, State Controller  
Ms. Rita Perry, Board Member's Office, First District (MIC 71)  
Mr. Neil Shah, Board Member's Office, Third District  
Mr. Romeo Vinzon, Board Member's Office, Third District  
Mr. Matthew Zylowski, Board Member's Office, Third District  
Ms. Margaret Pennington, Board Member's Office, Second District (MIC 78)  
Mr. Lee Williams, Board Member's Office, Second District (via e-mail)  
Mr. John Thiella, Board Member's Office, Fourth District (MIC 72)  
Mr. Steven Kamp, Board Member's Office, Fourth District (MIC 72)  
Ms. Marcy Jo Mandel, State Controller's Office  
Mr. James E. Speed (MIC 73)  
Mr. Timothy Boyer (MIC 83)  
Mr. Ramon J. Hirsig (MIC 43)  
Ms. Janice Thurston (MIC 82)  
Mr. Warren Astleford (MIC 82)  
Ms. Carla Caruso (MIC 82)  
Ms. Jean Ogrod (via e-mail)  
Mr. Jeff Vest (via e-mail)  
Mr. David Levine (MIC 85)  
Mr. Steve Ryan (via e-mail)  
Ms. Jennifer Willis (MIC 70)  
Mr. Dave Hayes (MIC 67)  
Mr. Joseph Young (via e-mail)  
Mr. Vic Anderson (MIC 40 and via e-mail)  
Mr. Larry Bergkamp (via e-mail)  
Mr. Geoffrey E. Lyle (MIC 50)  
Ms. Laureen Simpson (MIC 50)  
Ms. Leila Khabbaz (MIC 50)  
Ms. Cecilia Watkins (MIC 50)



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Second District, Stockton

CLAUDE PARRISH  
Third District, Torrance

JOHN CHIANG  
Fourth District, Los Angeles

KATHLEEN CONNELL  
State Controller, Sacramento

JAMES E. SPEED  
Executive Director

December 20, 2002

TO INTERESTED PARTIES:

**NOTICE OF PROPOSED REGULATORY ACTION  
BY THE  
STATE BOARD OF EQUALIZATION**

**AMEND SALES AND USE TAX REGULATION 1616, FEDERAL AREAS**

**PUBLIC HEARING: WEDNESDAY, FEBRUARY 5, 2002 AT 1:30 P.M.**

**NOTICE IS HEREBY GIVEN**

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1616, Federal Areas, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on February 5, 2003. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by February 5, 2003.

**INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Current law, Revenue and Taxation Code section 6352, provides that the gross receipts from the sale of, or the storage, use or other consumption of tangible personal property are exempt from tax where the Constitution or laws of the United States or the Constitution of this State prohibit the imposition of tax.

Regulation 1616, Federal Areas, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6352. Amendments are proposed to provide that Indian retailers are not required to collect use tax upon on-reservation sales to non-Indians and Indians who do not reside on a reservation, of tangible personal property

that is (1) intended for use in relation to on-reservation gaming activities, as defined; (2) promotes on-reservation gaming activities, as defined; (3) is made from raw materials produced on the reservation; (4) reflects or illustrates tribal history, culture or tradition; (5) is intended for use in an on-reservation activity; or (6) is not generally available for purchase outside of a reservation.

#### COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed amendments and regulations do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments and regulations will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

#### EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(8), the Board of Equalization makes an initial determination that the adoption of the amendment to Regulation 1616 will have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The adoption of the proposed amendment to this regulation and the proposed regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The proposed regulations may affect small business.

#### COST IMPACT ON PRIVATE PERSON OR BUSINESSES

That Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

#### FEDERAL REGULATIONS

Regulation 1616 and the proposed changes have no comparable federal regulations.

#### AUTHORITY

Section 7051, Revenue and Taxation Code.

## REFERENCE

Section 6352, Revenue and Taxation Code.

## CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Mariflor Jimenez (916) 324-2952, at 450 N Street, Sacramento, CA 95814, e-mail [Mariflor.Jimenez@boe.ca.gov](mailto:Mariflor.Jimenez@boe.ca.gov) or MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail [Diane.Olson@boe.ca.gov](mailto:Diane.Olson@boe.ca.gov) or Ms. Karen Anderson, Contribution Disclosures Analyst, telephone (916) 327-1798, e-mail [Karen.Anderson@boe.ca.gov](mailto:Karen.Anderson@boe.ca.gov) or by mail at State Board of Equalization, Attn: Diane Olson or Karen Anderson, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

## ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

## AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

## AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

**ADDITIONAL COMMENTS**

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

**STATE BOARD OF EQUALIZATION**

Deborah Pellegrini, Chief  
Board Proceedings Division

